



## Age of criminal responsibility

A child under the age of 10 cannot be charged with a criminal offence in NSW. A young person between the ages of 10 and 14 charged with a crime is not guilty unless it is proven that they knew what they were doing was seriously wrong.

## Police questions

You have a right to silence in dealing with police, which means you don't have to answer their questions or make a statement. This applies whether or not you are under arrest. There are exceptions to this, including the requirement to give your name and address to police if:

- you're under 18 and police suspect that you are carrying or consuming alcohol;
- you're driving a car or suspected of involvement in a driving offence;
- police believe you may have witnessed a serious crime because you were at or near the crime scene;
- police are trying to serve a warrant on you for non-payment of fines;
- police suspect there is an apprehended violence order (AVO) in place against you;
- you are suspected of committing an offence on a train or railway property.

## Police searches

If you're not under arrest, police aren't allowed to search you unless they have grounds for reasonable suspicion that you are carrying stolen goods, illegal drugs, a weapon, or something for use in committing a serious crime.

## Arrest

Arrest should be a last resort for under 18s. Wherever possible and appropriate, police should use alternatives such as warnings and formal cautions.

Nonetheless, police have power to arrest you if:

- they have reasonable suspicion that you have committed or are about to commit an offence;

- there is a warrant for your arrest;
- you've breached bail conditions.

Police must tell you that you're under arrest and the reason why.

At the police station, a person under 18 should not be questioned by police without an "independent adult" present (independent of the police). If you are under 16 the independent adult can be a lawyer, or your parent or guardian, or another adult approved by your parent/guardian. If you are 16 or 17, you can choose who to have present.

## Move on directions

Police have power to ask you to move on (leave) a public place if they believe on reasonable grounds that you are obstructing traffic, harassing or intimidating someone, likely to frighten someone, or intend to buy or sell drugs. They can't make you move on for another reason or for no reason. If police give you a legitimate move-on direction it's best to obey, otherwise you could be fined or arrested.

## Complaints

Complaints about unfair, wrongful or inappropriate police conduct can be made to the NSW Ombudsman's Office; or you may want to talk to a lawyer about it (see Help points on the back of this page).

## Going to Court

**Under 18s:** If you are appearing in the Children's Court, legal aid will provide a lawyer for you.

**Note:** for a traffic offence, if you are old enough to hold a driver's licence, you go to the Local Court and may be dealt with as an adult offender.

**Over 18s:** You don't have to be represented by a lawyer at court. If you plan to speak for yourself, it's advisable to at least get some legal advice first (see Help points below). It can be helpful to prepare some brief written notes to refer to while you're in front of the magistrate.

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Depending on the type of offence you're charged with, and your income and financial assets, you might be entitled to legal aid. In rural and regional towns, legally-aided representation is usually provided by a "duty solicitor" who is a private solicitor rostered on to do legal aid work at the court that day. If you can't get legal aid, you can either pay a private solicitor or represent yourself.

If you're pleading guilty, character references can be helpful, but make sure the person writing the reference includes the fact that they are aware of the charge you are facing.

Your case won't necessarily be completed on the first day you attend court. Your case might be "adjourned" (put over to a later date) if you plead not guilty, or if you ask for more time to arrange legal representation.

## Youth Justice Conferencing

If you are under 18, and you choose to admit to committing an offence, you might be offered a Youth Justice Conference instead of having to go to court. The Conference is an opportunity for the offender and victim, together with their support people, to discuss the crime and the impact it has had on everyone involved. An "outcome plan" is agreed on at the conference, which will usually set out steps for you to complete to help make up for any harm done and to get your life back on track.

## Criminal Records

If you are under 16 at the time of the offence, you do not get a criminal record for that offence. If you are 16 or 17, the magistrate in the Children's Court chooses whether or not to give you a "conviction" (criminal record).

For offences committed as an adult, you get a criminal record unless the magistrate gives you leniency under "section 10" (dismissing the charge with no conviction recorded, generally for first-time minor offences).

Some criminal records can become spent (wiped) if you go ten years without another offence (if you were an adult when convicted) or three years (if you were under 18 when convicted). But this doesn't apply if you were sentenced to more than 6 months in prison, or to sexual offences. Also, even spent convictions have to be revealed when applying for certain jobs, eg as a police officer, prison officer, fire fighter or to work with children.

## HELP POINTS

**Legal Aid Hotline for under 18s**  
**1800 10 18 10**

**Lawstuff**  
[www.lawstuff.org.au](http://www.lawstuff.org.au)

**NSW Ombudsman**  
[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or **1800 451 524**

**Shopfront Youth Legal Centre**  
[www.theshopfront.org](http://www.theshopfront.org) (*facts sheets*)

**Criminal Justice Support Network**  
24 hour phone support for people with an intellectual disability: **9318 0144**; or  
**1300 665 908** (*if in police custody*)

**Shoalcoast Community Legal Centre**  
[www.shoalcoast.org.au](http://www.shoalcoast.org.au)  
**4422 9529** (*Shoalhaven*)  
**1800 229 529** (*Eurobodalla and Bega Valley*)

**LawAccess NSW**  
[www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)  
**1300 888 529**